

Adopted	Rejected
---------	----------

## COMMITTEE REPORT

YES:	11
NO:	0

### MR. SPEAKER:

*Your Committee on* Courts and Criminal Code, to which was referred House Bill 1291, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:

- 1       Page 1, between the enacting clause and line 1, begin a new
- 2       paragraph and insert:
- 3       "SECTION 1. IC 33-39-1-1 IS AMENDED TO READ AS
- 4       FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) As used in this
- 5       chapter, "senior prosecuting attorney" means a person who:
- 6           (1) was employed for at least eight (8) years as a prosecuting
- 7           attorney or chief deputy prosecuting attorney; and
- 8           (2) files an affidavit requesting designation as a senior
- 9           prosecuting attorney in the circuit court **and each superior court**
- 10          in a county in which the person is willing to serve as a senior
- 11          prosecuting attorney.
- 12          (b) An affidavit filed under subsection (a) must contain the
- 13          following:
- 14           (1) The name of the person filing the affidavit.
- 15           (2) The person's attorney number issued by the supreme court.
- 16           (3) The length of time the person served as a chief deputy

prosecuting attorney or prosecuting attorney.

(4) The name of any county in which the person served as a chief deputy prosecuting attorney or prosecuting attorney.

(c) The circuit **or superior** court shall promptly forward each affidavit received under this section to the prosecuting attorneys council of Indiana."

Page 2, delete lines 18 through 29, begin a new line block indented and insert:

**"(5) shall appoint a special prosecutor if:**

**(A) a previously appointed special prosecutor:**

**(i) files a motion to withdraw as special prosecutor; or**

**(ii) has become incapable of continuing to represent the interests of the state; and**

**(B) the court finds that the facts that established the basis for the initial appointment of a special prosecutor still exist.**

**The elected prosecuting attorney of the appointing jurisdiction shall receive notice of all pleadings filed and orders issued under this subdivision."**

Page 3, line 16, strike "a per diem equal to" and insert **"an hourly rate based upon"**.

Page 3, line 17, strike "and".

Page 3, line 19, delete "." and insert **"; and**

**(C) other reasonable expenses actually incurred, including the costs of investigation, discovery, and secretarial work, if:**

**(i) the special prosecutor submits an application to the court to receive the other reasonable expenses; and**

**(ii) the court approves the expenses.**

**The amount of compensation a special prosecutor receives for services performed during a calendar day under subdivision (2)(A) may not exceed the amount of compensation a full-time prosecuting attorney would receive in salary for the calendar day."**

Page 3, line 39, delete "." and insert **"if the senior prosecuting attorney receives retirement benefits during the calendar year. However, if the senior prosecuting attorney does not receive retirement benefits during a calendar year, the senior prosecuting attorney may be compensated as a senior prosecuting attorney for**

1       **not more than two hundred (200) calendar days in total during the**  
2       **calendar year."**

3       Renumber all SECTIONS consecutively.  
      (Reference is to HB 1291 as introduced.)

**and when so amended that said bill do pass.**

---

Representative Hoy